

(e) Residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group is as low as reasonably achievable and would not exceed either—

(1) 100 mrem (1 mSv) per year; or

(2) 500 mrem (5 mSv) per year provided that the licensee—

(i) Demonstrates that further reductions in residual radioactivity necessary to comply with the 100 mrem/y (1 mSv/y) value of paragraph (e)(1) of this section are not technically achievable, would be prohibitively expensive, or would result in net public or environmental harm;

(ii) Makes provisions for durable institutional controls;

(iii) Provides sufficient financial assurance to enable a responsible government entity or independent third party, including a governmental custodian of a site, both to carry out periodic rechecks of the site no less frequently than every 5 years to assure that the institutional controls remain in place as necessary to meet the criteria of § 20.1403(b) and to assume and carry out responsibilities for any necessary control and maintenance of those controls. Acceptable financial assurance mechanisms are those in paragraph (c) of this section.

§ 20.1404 Alternate criteria for license termination.

(a) The Commission may terminate a license using alternate criteria greater than the dose criterion of §§ 20.1402, 20.1403(b), and 20.1403(d)(1)(i)(A), if the licensee—

(1) Provides assurance that public health and safety would continue to be protected, and that it is unlikely that the dose from all man-made sources combined, other than medical, would be more than the 1 mSv/y (100 mrem/y) limit of subpart D, by submitting an analysis of possible sources of exposure;

(2) Has employed to the extent practical restrictions on site use according to the provisions of § 20.1403 in minimizing exposures at the site; and

(3) Reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal.

(4) Has submitted a decommissioning plan or License Termination Plan (LTP) to the Commission indicating the licensee's intent to decommission in accordance with §§ 30.36(d), 40.42(d), 50.82 (a) and (b), 70.38(d), or 72.54 of this chapter, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

(i) Participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

(ii) An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

(iii) A publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement on the issues.

(b) The use of alternate criteria to terminate a license requires the approval of the Commission after consideration of the NRC staff's recommendations that will address any comments provided by the Environmental Protection Agency and any public comments submitted pursuant to § 20.1405.

§ 20.1405 Public notification and public participation.

Upon the receipt of an LTP or decommissioning plan from the licensee, or a proposal by the licensee for release of a site pursuant to §§ 20.1403 or 20.1404, or whenever the Commission deems such notice to be in the public interest, the Commission shall:

(a) Notify and solicit comments from:

(1) Local and State governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that